

S.B. NO. 1142

JAN 27 2021

A BILL FOR AN ACT

RELATING TO SERVICES FOR KUPUNA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2012, the legislature established in statute
2 the kupuna care program within the executive office on aging to
3 provide long-term services and supports to address the needs of
4 Hawaii's kupuna to age in their own homes. The program is
5 implemented through the area agencies on aging in each county.
6 The program offers two service options: traditional service
7 delivery through contracted providers or participant-directed
8 services and supports.

9 In 2017, the legislature established the kupuna caregivers
10 program in the executive office on aging to focus on working
11 caregivers and provide assistance to enable them to remain in
12 the workforce. The county area agencies on aging implement and
13 execute the kupuna caregivers program. For the kupuna
14 caregivers program, the qualified caregiver must work at least
15 30 hours per week and is awarded \$70 per day paid to the
16 contracted provider with the area agency on aging and providing
17 care to the care recipient. If additional services are needed

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1 for the care recipient, kupuna care services are also provided.
2 In 2019, the Legislature modified the amount provided to
3 caregivers to \$210 per week to allow provider agencies more
4 flexibility to increase the number of caregivers receiving
5 services. Due to the COVID-19 pandemic in 2020, many caregivers
6 lost their jobs and contracted service providers either closed
7 or decreased their services. This increased the burden on
8 caregivers and their caregiving duties. With the uncertainty of
9 the State's economic situation and when businesses will be able
10 to recover, caregivers and service have been forced to develop a
11 "new normal." To give more flexibility to the kupuna caregivers
12 program, the executive office on aging recommends that the area
13 agencies on aging be allowed to have more options to better
14 serve kupuna and their caregivers.

15 The purpose of this Act is to amend chapter 349, part II,
16 entitled kupuna care and caregiver support services, Hawaii
17 Revised Statutes, to allow for qualified caregivers to work less
18 than 30 hours a week or be unemployed during a declared state of
19 emergency, add the definition of a financial management service
20 provider, and add traditional services and kupuna caregiver-
21 directed services to the kupuna care program.

22 SECTION 2. Section 349-16, Hawaii Revised Statutes, is
23 amended to read as follows:

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1 "[f]§349-16] Definitions. Unless the context clearly
2 requires a different meaning, when used in this part:

3 "Activities of daily living" means the following activities
4 that individuals perform as a part of daily living: eating,
5 dressing, bathing, toileting, transferring in and out of a bed
6 or chair, and walking.

7 "Adult day care" means personal care for dependent elders
8 in a supervised, protective, and congregate setting during some
9 portion of a day. Services offered in conjunction with adult
10 day care include social and recreational activities, training,
11 and counseling.

12 "Aging and disability resource centers" means an entity
13 established by the State as part of the state system of long-
14 term care, serving as a highly visible and trusted source where
15 people of all incomes and ages can get information on the full
16 range of long-term support options, and a single point of entry
17 for access to public long-term support programs and benefits.

18 "Area agency on aging" means an agency designated by the
19 executive office on aging to develop and administer the area
20 plan for a comprehensive and coordinated system of aging
21 services.

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1 "Assisted transportation" means assistance and
2 transportation, including escort, for a person who has cognitive
3 or physical difficulties using regular vehicular transportation.

4 "Attendant care" means standby assistance, supervision, or
5 cues, including verbal prompts for medication, bathing, eating,
6 grooming, and dressing, and may include other activities to help
7 maintain the independence of an individual at home. "Attendant
8 care" does not include physical contact in support, including
9 but not limited to weight-bearing assistance with transfers,
10 washing, bathing, and dressing.

11 "Care coordination" means a person-centered, assessment-
12 based, interdisciplinary approach to integrating health care and
13 social support services that are tailored to an individual's
14 needs and goals across all care services.

15 "Care recipient" means an individual who:

16 (1) Is a citizen of the United States or a qualified
17 alien; provided that for the purposes of this
18 paragraph, "qualified alien" means a lawfully admitted
19 permanent resident under the Immigration and
20 Nationality Act;

21 (2) Is sixty years of age or older;

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1 (3) Is not covered by any comparable government or private
2 home- and community-based care service, except or
3 excluding kupuna care services;

4 (4) Does not reside in a long-term care facility, such as
5 an intermediate care facility, assisted living
6 facility, skilled nursing facility, hospital, foster
7 family home, community care foster family home, adult
8 residential care home, or expanded adult residential
9 care home; and

10 (5) Has impairments of at least:

11 (A) Two activities of daily living;

12 (B) Two instrumental activities of daily living;

13 (C) One activity of daily living and one
14 instrumental activity of daily living; or

15 (D) Substantive cognitive impairment requiring
16 substantial supervision because the individual
17 behaves in a manner that poses a serious health
18 or safety hazard to the individual or another
19 person.

20 "Case management" means assistance either in the form of
21 access or care coordination in circumstances where an individual
22 is experiencing diminished functioning capacities, personal
23 conditions, or other characteristics that require the provision

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1 of services by formal service providers or family caregivers.
2 Activities of case management may include assessing needs,
3 developing care plans, authorizing and coordinating services
4 among providers, and providing follow-up and reassessment, as
5 required.

6 "Chore" means assistance such as heavy housework, yard
7 work, or sidewalk maintenance for a person.

8 "Coach" means an individual who:

- 9 (1) Helps the care recipient understand the program of
10 participant-directed services and support;
- 11 (2) Develops and implements a spending plan to describe
12 how the care recipient will spend the care recipient's
13 budget; and
- 14 (3) Evaluates whether the participant-directed service and
15 support program is meeting the care recipient's needs.
- 16 (4) Assists care recipient and caregiver with enrollment
17 into programs and completing necessary forms,
18 including but not limited to, state and federal tax
19 forms, privacy and confidentiality forms, criminal
20 background checks, financial management forms,
21 employer and employee related forms, and forms
22 requested by the executive office on aging.

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1 "Family caregivers" means a spouse, adult child, other
2 relative, partner, or friend who has a personal relationship
3 with, and provides a broad range of unpaid assistance for an
4 older adult with a chronic or disabling condition.

5 "Financial management service provider" means a service
6 provider who is a fiscal agent and is responsible for financial
7 payments on behalf of the care recipient enrolled in a
8 participant-directed or kupuna caregiver-directed program.

9 "Home-delivered meals" means a meal provided to a care
10 recipient in the care recipient's place of residence; provided
11 that the meal is served in a program administered by the
12 executive office on aging or an area agency on aging and meets
13 all of the requirements of the Older Americans Act of 1965, as
14 amended, and all state and local laws.

15 "Homemaker [~~services~~]" means services that provide
16 assistance with preparing meals, shopping for personal items,
17 managing money, using the telephone, or performing light
18 housework.

19 "Instrumental activities of daily living" means the
20 following instrumental activities that individuals perform as a
21 part of daily living: preparing meals, shopping for personal
22 items, medication management, managing money, using the

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1 telephone, performing light housework, performing heavy
2 housework, and making use of available transportation.

3 "Kupuna care core services" means services consisting of:

- 4 (1) Adult day care;
- 5 (2) Attendant care;
- 6 (3) Case management;
- 7 (4) ~~[Chores,]~~ Chore;
- 8 (5) Homemaker ~~[services]~~;
- 9 (6) Home-delivered meals;
- 10 (7) Personal care;
- 11 (8) Transportation; or
- 12 (9) Assisted transportation.

13 "Personal care" means personal assistance, standby
14 assistance, supervision, or cues.

15 "Person-centered planning" means a process, directed by the
16 care recipient, intended to identify the strengths, capacities,
17 preferences, needs, and desired outcomes of the care recipient.

18 "Person-centered support plan" or "support plan" means a
19 plan developed by a care recipient ~~[with the assistance of a~~
20 ~~coach]~~ and the recipient's qualified caregiver that ~~[allows]~~
21 identifies the needs of the care recipient ~~[to establish the~~
22 ~~goals, skills, and knowledge necessary to work toward the~~
23 ~~desired outcomes and lays out practical steps toward the~~

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1 ~~achievement of the goals; provided that family members and~~
2 ~~friends may provide assistance in developing a care recipient's~~
3 ~~plan if the care recipient chooses to include them.] and allows~~
4 the caregiver to remain in the workforce.

5 "Qualified caregiver" means an individual who meets the
6 following requirements:

- 7 (1) Provides care for a care recipient; and
8 (2) Is employed at least thirty hours per week by one or
9 more employers~~[+]~~, or has reduced hours or is
10 unemployed during a declared state of emergency.

11 "Respite care" means services that offer temporary,
12 substitute supports, or living arrangements for care recipients
13 to provide a brief period of rest to qualified caregivers.

14 "Respite care" includes:

- 15 (1) In-home respite (personal care, homemaker services,
16 and other in-home respite);
17 (2) Respite provided by attendance of the care recipient
18 at a nonresidential program;
19 (3) Institutional respite provided by placing the care
20 recipient in an institutional setting such as a
21 nursing home for a short period of time as a respite
22 service to the caregiver; and

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1 (4) Any combination of services to assist the caregiver as
2 deemed appropriate by the area agency on aging.

3 "Service provider" means an entity that has all required
4 licenses or certificates, and is registered as a business entity
5 in the State.

6 "Transportation" means transportation from one location to
7 another with a vehicle and does not include any other activity."

8 SECTION 3. Section 349-18 Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~]§349-18[~~f~~] **Kupuna caregivers program.** (a) The
11 executive office on aging may establish the kupuna caregivers
12 program. The program shall provide assistance to a qualified
13 caregiver who meets the requirements of this section.

14 (b) The program shall be coordinated and administered by
15 the executive office on aging and implemented through the area
16 agency on aging. The executive office on aging shall develop
17 and implement a plan to maximize the number of caregivers served
18 by the program.

19 (c) The kupuna caregivers program shall be delivered
20 through two distinct service options: traditional service
21 delivery or kupuna caregiver-directed services (kupuna
22 caregiver-directed services), based on an support plan for each

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1 eligible care recipient and the care recipient's qualified
2 caregiver; provided that:

3 (1) Traditional service delivery shall be through a
4 service provider organization or person who provides
5 services to clients under a formal contractual
6 arrangement with the executive office on aging or area
7 agency on aging who shall deliver to each care
8 recipient one or more services identified in section
9 349-18(d) to address the care recipient's specific
10 needs that have been identified in the care
11 recipient's and caregiver's support plan; and

12 (2) Kupuna caregiver-directed services shall address the
13 care recipient's assessed needs and allow for the
14 qualified caregiver to remain in the workforce. The
15 care recipient and qualified caregiver shall have
16 shared decision-making authority over the budgeted
17 dollar amount to purchase and manage the needed
18 services and supports. Kupuna caregiver-directed
19 services shall provide the care recipient and
20 caregiver with a coach to assist the care recipient
21 with enrollment into the kupuna caregiver-directed
22 program to maintain independence and a quality living
23 experience in the community, and assist the caregiver

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1 with enrollment into the kupuna caregiver-directed
2 program to maintain employment.

3 [(e)] (d) The kupuna caregivers program shall award an
4 allocation of funds, subject to the availability of funding and
5 up to a maximum of \$210 per week, to cover costs for services
6 that would otherwise be performed by the qualified caregiver for
7 the care recipient, including but not limited to:

- 8 (1) Care coordination or case management;
- 9 (2) Adult day care;
- 10 (3) Assisted transportation;
- 11 (4) [~~Chores;~~] Chore;
- 12 (5) Home-delivered meals;
- 13 (6) Homemaker [~~services~~];
- 14 (7) Personal care;
- 15 (8) Respite care; or
- 16 (9) Transportation;

17 provided that the allocated funds shall be issued directly to
18 the service provider or financial management service provider
19 upon request and receipt of an invoice for services rendered."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Ann H. Ul.*

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BY REQUEST

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Report Title:

Executive Office on Aging; Kupuna Care; Kupuna Caregivers

Description:

Adds kupuna caregiver-directed services to kupuna caregivers program. Includes financial management service provider and additional duties for the coach. Allows for qualified caregivers to work less than 30 hours a week or be unemployed during a declared state of emergency.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO SERVICES FOR KUPUNA.

PURPOSE: Amend work eligibility requirement during a Governor proclaimed state of emergency and add kupuna caregiver-directed services as an option in the kupuna caregivers program.

MEANS: Amend sections 349-16 and 349-18, Hawaii Revised Statutes.

JUSTIFICATION: During the Governor's declared state of emergency many working caregivers are now unemployed and ineligible for the kupuna caregivers program based on the program's minimum work week requirement of 30 hours a week. Additionally, qualified caregivers are limited to only using service providers that are contracted by the county area agencies on aging. Due to state and county COVID-19 mandates and CDC guidelines for social distancing these providers have either closed or provide limited service capacity. Adding kupuna caregivers-directed services to the list of services offered under the kupuna caregivers program will provide flexibility to the county area agencies on aging and provide caregivers an additional option of services for their care recipient.

The kupuna caregivers-directed services shall include a financial management service provider, contracted by the Executive Office on Aging, who is responsible for financial payments on behalf of participants enrolled in the kupuna caregivers-directed program. The role of the coach is expanded to also include assistance with enrollment into the kupuna caregivers program and completing necessary forms.

Impact on the public:

Adding kupuna caregivers-directed services to the list of services offered under the kupuna caregivers program will provide flexibility to the county area agencies on aging and provide caregivers an additional option of services for their care recipient. Qualified caregivers, and more importantly their care recipients enrolled in the kupuna caregivers program, will continue to receive these services.

Impact on the department and other agencies:

The Executive Office on Aging will provide programmatic and administrative guidance to the county area agencies on aging related to implementing kupuna caregivers-directed services as an additional option under the list of services for the kupuna caregivers program.

GENERAL FUND: None

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH 904.

OTHER AFFECTED
AGENCIES: Area Agencies on Aging.

EFFECTIVE DATE: Upon approval.